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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Elkino Dawkins, Sr,

10 Plaintiff,

11 v.

12 Arizona Department of Economic Security,

13 Defendant.  
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No. CV-24-00237-TUC-RM (MSA)

**REPORT AND  
RECOMMENDATION**

15 This pro se action is brought by Plaintiff Elkino Dawkins. On August 8, the Court  
16 screened his complaint pursuant to 28 U.S.C. § 1915(e)(2)(B). (Doc. 9.) The Court found  
17 that Plaintiff failed to allege facts showing that this Court has subject matter jurisdiction.  
18 (*Id.* at 2–3.) The Court also found that Plaintiff’s vague factual statement was insufficient  
19 to state a claim to relief. (*Id.* at 1–2.) A magistrate judge can dismiss a complaint with leave  
20 to amend, *McKeever v. Block*, 932 F.2d 795, 798 (9th Cir. 1991), and the undersigned did  
21 so here. Plaintiff was given until September 9 to file a first amended complaint, and he was  
22 advised that the undersigned would recommend dismissal of his case if he failed to do so.  
23 (Doc. 9 at 3–4.) As of today, two weeks after the deadline, he still has not filed an amended  
24 pleading.

25 “While the magistrate can dismiss complaints with leave to amend, the district court  
26 necessarily must review that decision before dismissing the entire action.” *McKeever*, 932  
27 F.2d at 797. Therefore, the Court will recommend that the presiding district judge review  
28 the screening order and dismiss this case for lack of subject matter jurisdiction and failure

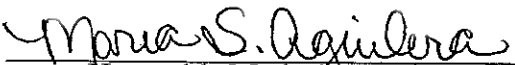
1 to state a claim.

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3 The Court recommends that the dismissal of Plaintiff Elkino Dawkins's complaint  
4 (Docs. 1, 9) be **affirmed** and that this case be **dismissed without prejudice**.

5 This recommendation is not immediately appealable to the United States Court of  
6 Appeals for the Ninth Circuit. Plaintiff has 14 days from the date of service of this  
7 recommendation to file specific written objections with the district court. Fed. R. Civ. P.  
8 72(b)(2). Failure to file timely objections may result in the waiver of de novo review.  
9 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

10 Dated this 23rd day of September, 2024.

11   
12 Honorable Maria S. Aguilera  
13 United States Magistrate Judge  
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